

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EMANUEL REDDEN,

Plaintiff,

v.

CORRECTIONAL OFFICER DIEZ,

Defendant.

Civil Action No. 05-241-GMS

**DEFENDANT’S MOTION
FOR ENLARGEMENT OF TIME**

COME NOW, the Defendant Lauro Diez (“Defendant”) by and through undersigned counsel, and hereby moves this Honorable Court to enter an Order, granting an enlargement of time pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, in which to file a Reply Brief in the above-captioned case. In support of this Motion, the defendant states as follows:

1. Plaintiff Emanuel Redden (“Plaintiff”) is an inmate presently incarcerated at the Delaware Correctional Center (“DCC”), Smyrna, Delaware. On April 25, 2005, plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 with leave to proceed *in forma pauperis* alleging Eighth and Fourteenth Amendment constitutional violations against the above mentioned defendant. The plaintiff alleges that on August 28, 2004, while housed at the Sussex Correctional Institution (“SCI”) the defendant “intentionally struck me on the right side of my neck with his right forearm as he was walking passed me.” (Complaint, *passim*). (D.I. 2). Plaintiff further alleges that he reported the “assault” to the defendant’s supervisor; the defendant just laughed and walked away. *Id.*

2. On or about May 16, 2006, defendant filed an Answer. (D.I. 11). On or about July 24, 2006, a Scheduling Order was issued. (D.I.15) The Order is as follows: Joinder of Parties and Amended Pleadings due by September 20, 2006, Discovery due by January 19, 2007 and dispositive motions due by February 19, 2007. On or about July 26, 2006, an Amended Scheduling Order was issued changing the due date of dispositive motions from February 19, 2007 to February 20, 2007. (D.I. 16). Discovery was propounded by the parties with the plaintiff being deposed at the DCC on or about January 17, 2007. (D.I. 18). On or about February 8, 2007, defendant filed a Motion for Summary Judgment with an accompanying Opening Brief in Support thereof. (D.I. 20, 21). On or about February 20, 2007, plaintiff filed an Answering Brief. (D.I. 22).

3. Pursuant to 7.1.2 of the Local Rules for the District of Delaware as well as the court docket, defendant's Reply Brief is due on or about March 2, 2007. Presently, defendant's counsel is on medical leave necessitating the re-assignment of this case. The new deputy will maintain her own caseload while simultaneously assuming additional responsibilities not only in this case, but in others, requiring more of her time. For these reasons, defendant requests an enlargement of time of thirty (30) days from the March 2, 2007, date until on or before April 2, 2007, in order to file a Reply Brief in this matter.

4. This request for an enlargement of time is made to allow sufficient time for counsel to disseminate the necessary documentation in order to file an appropriate response.

5. This is defendant's first request for an extension of time.

6. There is no trial date scheduled in this case.

7. A form of order is attached to this motion that will grant the defendant a thirty day (30) day extension from March 2, 2007, until on or before April 2, 2007, in which to file a Reply Brief.

WHEREFORE, the defendant respectfully requests that this Honorable Court grant his Motion and enter an Order, substantially in the form attached hereto, enlarging defendant's time to file a Reply Brief until on or before April 2, 2007.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Linda Carmichael
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Dated: February 28, 2007

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that on February 28, 2007, I electronically filed *Defendant's Motion for Enlargement of Time* with the Clerk of Court using CM/ECF. I hereby certify that on February 28, 2007, I have mailed by United States Postal Service, the document to the following non-registered participant: Emanuel Redden, SBI #0092507 Delaware Correctional Center; 1181 Paddock Road; Smyrna, DE 19977.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

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